

AMENDED IN ASSEMBLY AUGUST 31, 2009

AMENDED IN ASSEMBLY AUGUST 17, 2009

AMENDED IN ASSEMBLY JULY 14, 2009

AMENDED IN ASSEMBLY JULY 1, 2009

AMENDED IN SENATE MAY 12, 2009

## **SENATE BILL**

**No. 813**

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### **Introduced by Senator Kehoe**

February 27, 2009

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An act to add Sections 50517.12, 50650.8, 50862.6, and 50896.4 to the Health and Safety Code, relating to community development.

#### LEGISLATIVE COUNSEL'S DIGEST

SB 813, as amended, Kehoe. Community development: grant and loan securitization-pilot programs.

Under existing law, there are programs providing assistance for, among other things, multifamily housing, emergency housing, farmworker housing, home ownership for very low and low-income households, and downpayment assistance for first-time home buyers administered by the Department of Housing and Community Development. The Joe Serna, Jr. Farmworker Housing Grant Program provides grants and loans for the construction or rehabilitation of housing for agricultural employees and their families or for the acquisition of manufactured housing to address and remedy the impacts of displacement of farmworker families. The CalHome Program provides grants and loans to enable low- and very low income households to become or remain homeowners. The Building Equity and Growth in Neighborhoods (BEGIN) Program is established to make

grants and loans to be used for downpayment assistance to qualifying first-time home buyers of low- and moderate-incomes purchasing newly constructed homes in a BEGIN project. Existing federal law establishes the HOME Investment Partnership Act, which allocated funds to states and local governments to eligible states to, among other things, expand the supply of affordable housing. The department is the state agency responsible for the state's allocation of HOME funds.

This bill would make legislative findings and declarations relating to the securitization of second mortgage loans with funds made available by the department. The bill would ~~require~~ *authorize*, for the purposes of each of the above programs, a grant or loan for an individual household ~~in a mutual self-help housing program~~ to include a ~~deferred payment future value grant repayment~~ or loan, respectively, due on sale or transfer, or when the property ceases to be owner-occupied, as specified. The bill would require the department to implement the special grant and loan securitization ~~pilot programs through regulation guidelines~~ exempt from a specified provision of existing law. ~~The bill would specify that the pilot programs apply only to specified counties, except that the department may include, in its discretion, other counties in the pilot programs.~~ *The bill would authorize the department to make use of future value securitization for loans and grants.* The bill would provide that the authority for the special grant and loan securitization ~~pilot programs expire~~ *expires* on January 1, 2014.

~~The bill would also make legislative findings and declarations as to the necessity of a special statute.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Many first-time homeowners ~~assisted by nonprofit~~
- 4 ~~corporations to achieve home ownership through mutual self-help~~
- 5 ~~construction~~ have been challenged by a combination of costs of
- 6 land purchased before current market conditions arose, low
- 7 appraised values of proposed homes due to foreclosures and related
- 8 economic conditions, and the costs of land, government fees, and
- 9 construction.

(b) ~~These nonprofit corporations and~~ potential homeowners are eligible for financial assistance under the Joe Serna, Jr. Farmworker Housing Grant, CalHome, Building Equity and Growth in Neighborhoods (BEGIN), and HOME programs administered by the Department of Housing and Community Development.

(c) As a result of ~~present~~ *current* market conditions, financing to pay all costs often exceeds the depressed level of current home values. Therefore, neither adequate construction lending nor sufficient permanent financing can be obtained.

(d) Authorizing an alternative but financially sound means of securing second mortgage loans made with funds available through the Department of Housing and Community Development would provide housing for hard-working households; *and low- and moderate-income first-time home buyers*, stimulate the construction labor and materials industry, and improve neighborhoods and areas with empty lots.

~~(e) Because self-help first-time home buyers usually remain in their homes for extended periods of time, an alternative~~

*(e) An alternative* unconventional means of securing loans by utilizing future increases in value when market conditions stabilize ~~should~~ *may* be employed for ~~at least five up to four~~ years in order to allow for orderly resumption and continuation of these first-time homeowner programs.

SEC. 2. Section 50517.12 is added to the Health and Safety Code, to read:

50517.12. (a) For purposes of this chapter, a grant for an ~~individual household in a mutual self-help housing program shall include a deferred payment grant due on sale or transfer, except~~ *individual household may include a future value grant repayment due on sale or transfer, except* as provided herein, or when the property ceases to be owner-occupied. The outstanding balance of the grant shall be payable only from the increase in the ~~home's equity~~ *home value*, calculated as the difference between the following:

(1) The appraised value at the time that the grant made pursuant to this chapter is ~~recorded~~ *made to the buyer*.

(2) The appraised value at the time repayment is due.

(b) Both of the following shall apply to the amount of ~~the deferred payment grant~~ *future value grant repayment* specified in subdivision (a):

1 (1) The amount shall not be considered by a lender or other  
2 source of financing in calculating the loan-to-value ratio of the  
3 financing on the property at the time the grant is made *to the buyer*.

4 (2) The amount of each grant shall not exceed the difference  
5 ~~between the loan secured by a first deed of trust and the total~~  
6 ~~development cost, which shall include an amount attributable to~~  
7 ~~sweat equity as approved by the department, for that grant.~~ *between*  
8 *total development costs as approved by the department and the*  
9 *appraised value of the home at the time of the original sale.*

10 (c) If necessary to achieve the housing cost payments required  
11 by this chapter in order for a household to qualify for a first  
12 mortgage, the department ~~shall approve both the deferred payment~~  
13 ~~grant may approve both future grant repayment~~ authorized by this  
14 section and grants or loans otherwise authorized by this chapter.  
15 However, the latter grants or loans shall not be secured only by  
16 the increase in ~~equity~~ *future value* but, instead, shall be payable  
17 upon sale or transfer after satisfaction of other approved liens on  
18 the property.

19 SEC. 3. Section 50650.8 is added to the Health and Safety  
20 Code, to read:

21 50650.8. (a) For purposes of this chapter, a loan for an  
22 ~~individual household in a mutual self-help housing program shall~~  
23 ~~include a deferred payment loan due on sale or transfer, except as~~  
24 ~~individual household may include a future value payment loan due~~  
25 ~~on sale or transfer, except as~~ provided herein, or when the property  
26 ceases to be owner-occupied. The outstanding balance of the loan  
27 shall be payable only from the increase in the home's ~~equity~~ *value*,  
28 calculated as the difference between the following:

29 (1) The appraised value at the time that the CalHome loan is  
30 ~~recorded~~ *made to the buyer*.

31 (2) The appraised value at the time repayment is due.

32 (b) Both of the following shall apply to the amount of the  
33 ~~deferred future value~~ payment loan specified in subdivision (a):

34 (1) The amount shall not be considered by a lender or other  
35 source of financing in calculating the loan-to-value ratio of the  
36 financing on the property at the time the CalHome loan is made  
37 *to the buyer*.

38 (2) The amount of each ~~deferred future value~~ payment loan shall  
39 not exceed ~~the difference between the loan secured by a first deed~~  
40 ~~of trust and the total development cost, which shall include an~~

~~amount attributable to sweat equity as approved by the department, for that loan; the difference between the total development costs as approved by the department and the appraised value of the home at the time of the original sale.~~

(c) If necessary to achieve the housing cost payments required by this chapter in order for a household to qualify for a first mortgage, the department ~~shall approve the deferred~~ *may approve the future value* payment loan authorized by this section and loans otherwise authorized by this chapter. However, the latter loans shall not be secured only by the increase in ~~equity~~ *future value* but, instead, shall be payable upon sale or transfer after satisfaction of other approved liens on the property.

SEC. 4. Section 50862.6 is added to the Health and Safety Code, to read:

50862.6. (a) For purposes of this chapter, a loan for an individual household ~~in a mutual self-help housing program shall include a deferred~~ *may include a future value* payment loan due on sale or transfer, except as provided herein, or when the property ceases to be owner-occupied. The outstanding balance of the loan shall be payable only from the increase in the home's ~~equity~~ *value*, calculated as the difference between the following:

(1) The appraised value at the time that the BEGIN loan is ~~recorded~~ *made to the buyer*.

(2) The appraised value at the time repayment is due.

(b) Both of the following shall apply to the amount of the ~~deferred future value~~ payment loan specified in subdivision (a):

(1) The amount shall not be considered by a lender or other source of financing in calculating the loan-to-value ratio of the financing on the property at the time the BEGIN loan is made *to the buyer*.

~~(2) The amount of each deferred payment loan shall not exceed the difference between the loan secured by a first deed of trust and the total development cost, which shall include an amount attributable to sweat equity as approved by the department, for that loan.~~

(2) *The amount of each future value loan shall not exceed the difference between the total development costs as approved by the department and the appraised value of the home at the time of the original sale.*

(c) If necessary to achieve the housing cost payments required by this chapter in order for a household to qualify for a first mortgage, the department ~~shall approve both the deferred~~ *may approve both future value* payment loan authorized by this section and loans otherwise authorized by this chapter. However, the latter loans shall not be secured only by the increase in ~~equity~~ *future value* but, instead, shall be payable upon sale or transfer after satisfaction of other approved liens on the property.

SEC. 5. Section 50896.4 is added to the Health and Safety Code, to read:

50896.4. (a) For purposes of this chapter, a loan for an individual household ~~in a mutual self-help housing program shall include a deferred~~ *may include a future value* payment loan due on sale or transfer, except as provided herein, or when the property ceases to be owner-occupied. The outstanding balance of the loan shall be payable only from the increase in the home's ~~equity~~ *value*, calculated as the difference between the following:

(1) The appraised value at the time that the HOME loan is ~~recorded~~ *made to the buyer*.

(2) The appraised value at the time repayment is due.

(b) Both of the following shall apply to the amount of the ~~deferred future value~~ payment loan specified in subdivision (a):

(1) The amount shall not be considered by a lender or other source of financing in calculating the loan-to-value ratio of the financing on the property at the time the HOME loan is made *to the buyer*.

~~(2) The amount of each deferred payment loan shall not exceed the difference between the loan secured by a first deed of trust and the total development cost, which shall include an amount attributable to sweat equity as approved by the department, for that loan.~~

*(2) The amount of each future value payment loan shall not exceed the difference between the total development costs as approved by the department and the appraised value at the time of the original sale.*

(c) If necessary to achieve the housing cost payments required by this chapter in order for a household to qualify for a first mortgage, the department ~~shall approve both the deferred~~ *may approve both the future value* payment loan authorized by this section and loans otherwise authorized by this chapter. However,

1 the latter loans shall not be secured only by the increase in equity  
2 *future value* but, instead, shall be payable upon sale or transfer  
3 after satisfaction of other approved liens on the property.

4 SEC. 6. (a) The Department of Housing and Community  
5 Development shall implement the special grant and loan  
6 securitization-pilot programs authorized by Sections 2, 3, 4, and  
7 5 of this act through ~~regulations~~ *guidelines* that shall be exempt  
8 from Chapter 3.5 (commencing with Section 11340) of Part 1 of  
9 Title 2 of the Government Code, following at least one consultation  
10 with the program sponsors who will receive, and represent the  
11 homeowners benefiting from, the special grants and loans  
12 authorized by this act. In developing these ~~regulations~~ *guidelines*  
13 and related transactional documents and implementing the  
14 programs in Sections 2, 3, 4, and 5, the department also may utilize  
15 other forms of securitization that achieve the ~~self-help~~ housing  
16 goals and objectives of Section 1 of this act. *The department shall*  
17 *require sufficient concessions and writedowns by the developer*  
18 *or local government in order to make the project feasible.*

19 (b) The special grant and loan securitization-pilot programs  
20 established by this act ~~shall~~ *may* apply to any existing contract  
21 ~~with a local government or nonprofit entity~~ for funds under the  
22 Joe Serna, Jr. Farmworker Housing Grant Program (Chapter 3.2  
23 (commencing with Section 50517.5) of Part 2 of Division 31 of  
24 the Health and Safety Code), CalHome Program (Chapter 6  
25 (commencing with Section 50650) of Part 2 of Division 31 of the  
26 Health and Safety Code), Building Equity and Growth in  
27 Neighborhoods (BEGIN) Program (Chapter 14.5 (commencing  
28 with Section 50860) of Part 2 of Division 31 of the Health and  
29 Safety Code), or HOME program (Chapter 16 (commencing with  
30 Section 50896) of Part 2 of Division 31 of the Health and Safety  
31 Code) and ~~shall~~ *may* authorize homeowner loans or grants with  
32 funds that have not yet been expended from those contracts for  
33 mortgage, grant, or take-out financing on behalf of eligible  
34 households.

35 ~~(e) (1) The special grant and loan securitization pilot programs~~  
36 ~~authorized by Sections 2, 3, 4, and 5 of this act shall only apply~~  
37 ~~to Butte County, Merced County, Riverside County, Santa Clara~~  
38 ~~County, Sonoma County, and Yuba County.~~

39 ~~(2) Notwithstanding paragraph (1), the Department of Housing~~  
40 ~~and Community Development may, in its discretion, include other~~

1 ~~counties in the special grant and loan securitization pilot programs~~  
2 ~~in order to allow self-help housing projects to continue.~~

3 *(c) The department may make use of future value securitization*  
4 *for loans or grants based upon an assessment of the need for its*  
5 *use. The department may also limit the use of future value*  
6 *securitization to loans in housing developments in which it has*  
7 *already made financial commitments and may require concessions*  
8 *from developers or local governments to permit use of future value*  
9 *securitization.*

10 *(d) The department may secure a portion of a grant or loan*  
11 *using future value securitization and another portion directly by*  
12 *current value, depending on the actual amount to which cost*  
13 *exceeds current value. The department may recognize sweat equity,*  
14 *in the case of a mutual self-help development, or the cash*  
15 *downpayment, as senior to the amount secured by future valuation*  
16 *to the extent required by first mortgage lenders.*

17 *(e) The department shall at all times have full discretion*  
18 *regarding the use of future value securitization and to establish*  
19 *guidelines regarding its use.*

20 ~~(d)~~

21 *(f) The authority for the special grant and loan securitization*  
22 *pilot programs authorized by this act shall expire on January 1,*  
23 *2014, unless a later enacted statute, that is enacted before January*  
24 *1, 2014, deletes or extends that date.*

25 ~~SEC. 7. The Legislature finds and declares that there are unique~~  
26 ~~circumstances concerning the housing needs in Butte County,~~  
27 ~~Mered County, Riverside County, Santa Clara County, Sonoma~~  
28 ~~County, and Yuba County necessitating the enactment of the~~  
29 ~~procedures contained in this act. It is therefore declared that a~~  
30 ~~general law cannot be made applicable within the meaning of~~  
31 ~~Section 16 of Article IV of the California Constitution, and that~~  
32 ~~the enactment of this act as a special law is necessary.~~

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35 CORRECTIONS:

36 Text—Page 6.

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